UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1998/877
22 September 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 21 SEPTEMBER 1998 FROM THE PERMANENT MISSION OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Acting on instructions from my Government, I have the honour to transmit to you herewith the text of a letter dated 16 September 1998 from Mr. Tariq Aziz, Deputy Prime Minister and Deputy Minister for Foreign Affairs, concerning the extension by the United Nations Compensation Commission of the competence conferred on it under paragraph 16 of Security Council resolution 687 (1991) and the harm that this is causing to Iraq.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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Annex

[Original: Arabic

Letter dated 17 September 1998 from the Deputy Prime Minister of Iraq addressed to the Secretary-General

The Government of Iraq has learned that the Governing Council of the United Nations Compensation Commission at Geneva was on the point of considering the report submitted to it with a view to determining whether Iraq should pay compensation in respect of its debts and obligations arising prior to 2 August 1990, and that the report was in the form of a lengthy legal study.

We should like to refer to paragraph 16 of Security Council resolution 687 (1991) whereby the Council 'Reaffirms that Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage - including environmental damage and the depletion of natural resources - or injury to foreign Governments, nationals and corporations as a result of its unlawful invasion and occupation of Kuwait.'

In the aforesaid resolution, the Security Council clearly expressed its will and decided that Iraq's debts and obligations arising prior to 2 August 1990 did not come under the issue of compensation and should be addressed through the normal mechanisms. The Iraqi Government therefore protests the raising of this issue by the United Nations Compensation Commission and considers this position to be contrary to Security Council resolution 687 (1991).

Since it was established, the United Nations Compensation Commission has sought zealously to extend the scope of its activities. There is much evidence attesting thereto. For example:

1. Attempts have been made to expand the meaning given to direct injury referred to in the aforesaid paragraph 16 of Security Council resolution 687 (1991) which stipulates that 'Iraq ... is liable under international law for any direct loss' and 'damage ... as a result of its' entry into Kuwait. This clearly means that the Security Council wishes to hold Iraq liable, under international law, for damage stemming from its actions, whereas the United Nations Compensation Commission has attributed to our country a new liability - of which no trace can be found in the Security Council resolutions - by issuing its decision No. 7 dated 17 March 1992 whereby it holds Iraq liable for damage resulting from actions committed by the Coalition forces. This extension of the Commission's competence and the extension of Iraq's liabilities have caused considerable injury to the finances of the Iraqi people.

2. Iraq's liability was clearly established by resolutions 687 and 692; it is confined to compensation for direct loss or damage. The Governing Council of the United Nations Compensation Commission has decided (decision No. 16) to add interest to the amount of the compensation even though no Security Council resolution requires Iraq to pay interest or makes any mention thereof in any

form whatsoever. Adding interest to the amount of compensation is a new requirement introduced by the United Nations Compensation Commission; there is no justification for it either in the relevant resolutions of the Security Council or in the report of the Executive Secretary (S/22559), dated 2 May 1991, which defines the responsibilities and duties of the United Nations Compensation Commission. If we consider, on the one hand, the amount of the compensation which will probably be set within the context of the policy pursued by the Commission and, on the other, the period over which the cumulative interest is due, we can imagine the injury which Iraq will have to sustain from paying such interest.

3. The United Nations Compensation Commission, through the intermediary of its former Executive Secretary, signed a protocol with the Egyptian Government whereby it is authorized to receive claims for amounts due to Egyptian workers for the years 1987, 1988, 1989 and 1990 following operations carried out by those workers with Iraqi banks even though such claims have nothing to do with the entry of Iraq into Kuwait or with the relevant resolutions of the Security Council. Not content with accepting these claims, the Governing Council of the United Nations Compensation Commission decided to accept a part of the Egyptian workers' claims which it considers as falling within the framework of the Commission's responsibilities by spreading Iraq's liability over time and considering that transfers effected since 2 July 1990 fall within the competence of the Commission; in other words the Governing Council does not even abide by the date of 2 August 1990, the date for the start of the implementation of the coercive measures against Iraq.

We can cite other examples in this connection and the Iraqi Government reserves the right to throw light on this issue at a later date in order to illustrate the extent of the wrong, injury and injustice being done to the Iraqi people, whose assets are being pillaged under cover of compensation.

Finally, the United Nations Compensation Commission is considering the possibility of including all or part of the Iraqi debt in its field of competence and it is doing so for obvious political reasons since this issue is clearly defined by the relevant Security Council resolutions. Accordingly, the Iraqi Government feels it is timely to ask you to intervene to ensure that the United Nations Compensation Commission abides by the relevant Security Council resolutions and does not broaden the interpretation thereof by imposing on Iraq new obligations which are not contained in those resolutions.

(Signed) Tariq AZIZ
Deputy Prime Minister
Deputy Minister for Foreign Affairs

16 September 1998